

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0264P**

**Withholding Tax  
February 1998**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed for the late filing of its WH-1 for the tax period ending February 1998. Taxpayer requested a hearing but did not call nor attend the hearing scheduled for Thursday, February 11, 1999. The department makes its decision based upon information contained in the file and taxpayer's protest letter dated June 3, 1998. Taxpayer states the check written to pay the withholding taxes as well as the WH-1 were dated March 20, 1998 and these facts show that it was their intent to pay the tax on a timely basis.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer was negligent in timely filing its WH-1 return.

A review of the envelope in which the returns were mailed indicates it is postmarked March 23, 1998, both by the taxpayer's postage meter and the post office which is clearly past the due date.

Taxpayer's statement that it was their intent to pay the tax on a timely basis does not relieve it of the penalty assessed.

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PAGE #2

**FINDING**

Taxpayer's protest is denied.